

SUPPLEMENTAL SPECIFICATION**SECTION 108 -- PROSECUTION AND PROGRESS****SUBSECTION 108.09 - FAILURE TO COMPLETE ON TIME**

Amend 108.09 to read:

108.09 Failure to Complete on Time. For each calendar day or work day that work remains uncompleted after the Contract Time, the sum specified below will be deducted from any money due the Contractor. This sum shall not be considered and treated as a penalty but as liquidated damages due the Department by reason of inconvenience to the public, added cost of engineering and supervision, and other extra expenditures of public funds due to the Contractor's failure to complete the Work on time. Any adjustment of the Contract Time for completion of the Work granted under the provisions of 108.07 will be considered in the assessment of liquidated damages.

In the case of a date in the Contract being given for the completion of parts, phases, or stages, the liquidated damages will be deducted for the period in which that particular work specified is uncompleted.

Permission for the Contractor or Surety to continue and finish work after the Contract Time and approved extensions have elapsed shall not waive the Department's rights under the Contract.

The assessment of all or any of the liquidated damages that accrue may be terminated if the Department has determined that the Work is substantially complete and is in a condition for safe and convenient use by the traveling public.

The Work will be considered substantially complete when all necessary signing, striping, guardrail, and other safety appurtenances have been installed. For projects that will not be opened to the traveling public, the Contract will be considered substantially complete when it is ready for the subsequent project. This shall not be construed as a contractual right and its application will be contingent upon the Contractor's diligence in completing the remaining items of work.

Liquidated damages shall be assessed in accordance with the following schedule:

<u>Original Contract Amount</u>		<u>Daily Charge</u>	
From more than	To and including	Calendar Day	Working Day
\$ 0	\$ 25,000	\$ 167	\$ 250
25,000	50,000	200	300
50,000	100,000	317	475
100,000	500,000	367	550
500,000	1,000,000	633	950
1,000,000	2,000,000	933	1400
2,000,000	5,000,000	1267	1900
5,000,000	10,000,000	1567	2350
10,000,000	----	1867	2800

When the Contract Time is on the calendar date basis, the schedule for calendar date shall be used. When the contract time is on a working day basis, the schedule for working days shall be used.

When Acceptance has been made by the Engineer as prescribed in 105.17, the daily charge will no longer be assessed.

Should the amount of money otherwise due the Contractor be less than the amount of such liquidated damages, the Contractor and the Surety shall be liable to the State for such deficiency.

The Engineer has the right to deduct the amount of anticipated liquidated damages against the Contractor from any estimated payment for Work performed under the Contract; or to claim and recover such sums by process of law. Review of anticipated Contract completion and potential liquidated damages will commence when 80% of the original Contract time has elapsed.